

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

DENNIS CHESTER, on his own behalf
and those similarly situated,

Case No. 4:18-cv-00076-HLM

Plaintiff,

v.

LNR ENTERPRISE, LLC, a Domestic
Limited Liability Company and
CARL D. LIVINGSTON, Individually,

Defendants.

_____ /

AFFIDAVIT OF ANDREW R. FRISCH

STATE OF FLORIDA:

COUNTY OF BROWARD:

Before me, the undersigned authority, personally appeared ANDREW R. FRISCH, Esquire, who, after being duly sworn, deposes and says:

1. My name is ANDREW R. FRISCH. I am over the age of eighteen (18) and competent to testify as to the matters stated herein.

2. I am a partner at Morgan & Morgan, P.A. ("M&M") in Plantation, Florida, in charge of the firm's nationwide class/collective action employment practice.

3. M&M is a national firm, with over 400 attorneys, that represents plaintiffs in a wide variety of employment matters including individual and collective/class action litigation involving wage and hour claims.

4. As an attorney for M&M, I am responsible for prosecuting, as lead counsel,

federal and state labor and employment claims, including claims arising under Title VII, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Florida Civil Rights Act, the Fair Labor Standards Act (“FLSA”), and various parallel state and local municipal wage and hour laws, among others.

5. M&M is the largest Plaintiff-side law firm in the United States.

6. I was/am Plaintiff’s counsel in the matter of *Dennis Chester vs. LNR Enterprise, LLC and Carl D. Livingston* (Case No. 4:18-cv-76-HLM) . To that end, I was the attorney responsible for the litigation on behalf of Dennis Chester.

7. As indicated by the contemporaneous time records attached hereto as **EXHIBIT A**, a total of 13.61 hours were spent prosecuting this Complaint on behalf of Plaintiff, Dennis Chester.

8. I/we undertook this representation on a purely contingent basis. Moreover, because our firm has finite resources, our acceptance of this case precluded me/us from accepting other wage and hour class/collective actions. Neither my firm, nor I have received compensation for the services we have rendered in this case to date, from any source.

Counsel’s Background and Experience

9. I completed my undergraduate studies at the University of Michigan (Ann Arbor), where I obtained a Bachelor of Arts (1997) with honors, and served as an assistant to the Honorable Lynn Rivers, then the Congressperson from Ann Arbor in the United States House of Representatives. After my graduation from the University of Michigan, I attended law school at the Benjamin N. Cardozo School of Law in New York, where I graduated in the top of my class and earned a Juris Doctor degree (2000). While in law school, I served as a

student law clerk for the Honorable Denis R. Hurley of the Eastern District of New York, and received numerous scholastic honors.

10. I was admitted to the bars of the State of New York and New Jersey in 2001, the bar of the State of Florida in 2006, and the bar of the State of Georgia in 2012. Additionally, I am admitted to the bars of the Third, Fifth, Sixth, and Eleventh Circuit Court of Appeals, the District of Colorado, Middle, Northern and Southern Districts of Florida, Middle and Northern Districts of Georgia, Middle and Northern Districts of Georgia Bankruptcy Courts, Northern District of Illinois, Eastern District of Michigan, Eastern, Northern, and Southern Districts of New York, District of New Jersey, Eastern and Western Districts of Tennessee, and Northern and Southern Districts of Texas. I am a member in good standing of each of these bars.

11. I have been practicing law since January 2001, have successfully handled hundreds of FLSA collective action cases (in multiple states and venues), and prior to coming to Morgan & Morgan, P.A., I managed the Wage and Hour Department at Rosenthal & Levy, P.A. in West Palm Beach, Florida for over a year.

12. I have served or am serving as lead counsel in Wage and Hour Class/Collective Actions in the Middle, Northern and Southern District of Florida, Southern District of Texas, Eastern and Southern Districts of New York, District of New Jersey, Eastern District of North Carolina, Southern and Northern Districts of Mississippi, Eastern, Middle and Western Districts of Tennessee, Southern District of Ohio, Northern and Middle Districts of Georgia, District of Colorado, District of Oregon, and the Court of Federal Claims. *See, e.g., Bath v. Red Vision Systems, Inc.*, 2014 WL 2436100 (D.N.J. May 29, 2014); *Thompson v. Direct*

General Consumer Products, Inc., 2014 WL 884494 (M.D. Tenn. March 5, 2014)(nationwide class of insurance agents); *Palma v. MetroPCS Wireless, Inc.*, 2013 WL 6597079 (M.D. Fla. Dec. 16, 2013)(nationwide class of account service representatives); *White v. NTC Transp., Inc.*, 2013 WL 5874566 (N.D. Miss. Oct. 31, 2013); *Cooper v. East Coast Assemblers, Inc.*, 2013 WL 308880 (S.D. Fla. Jan. 25, 2013)(certifying nationwide class of “assemblers” regarding unpaid overtime claims); *Young v. Dollar Tree Stores, Inc.*, 1:11-cv-01840-REB-MJW, D.E. 264 (D. Colo. Aug. 24, 2012)(conditionally certifying a nationwide class of over 35,000 “assistant store managers” pursuing off-the-clock claims); *Hardesty v. Litton's Market and Restaurant, Inc.*, 2012 WL 6046743 (E.D. Tenn. Sept. 28, 2012)(class of tipped servers alleging tip credit violations); *Toure v. Amerigroup Corp.*, 2012 WL 1432302, (E.D.N.Y. April 20, 2012); *Elliott v. Amspec Services, LLC*, 2011 WL 6002019 (D.N.J. Nov. 29, 2011)(certifying nationwide class of “oil, gas and chemical inspectors”); *Mainor v. Lazer Spot, Inc.*, 2011 U.S. Dist. LEXIS 151990, at *8 (N.D. Ga. Aug. 9, 2011)(nationwide class of yard jockeys); *Dacar v. Saybolt, LP*, 4:11-cv-00433, D.E. 135 (S.D. Tex. June 2, 2011); *Aponte v. Comprehensive Health Management, Inc.*, 2011 WL 2207586 (S.D.N.Y. June 2, 2011); *Alvarez v. Gold Belt, LLC*, 2011 WL 1337457 (D.N.J. Apr. 7, 2011); *Mills v. RM International, Inc.*, 3:11-cv-00129, D.E. 38 (D. Or. March 31, 2011)(conditionally certifying nationwide class of “test drivers”); *Reyes v. AT & T Corp.*, 2011 WL 3517004 (S.D. Fla. Feb. 28, 2011)(conditionally certifying a nationwide class of “retail account executives”); *Brantley v. Inspectorate America Corp.*, 4:09-cv-02439, D.E. 43 (S.D. Tex. April 14, 2010); *Gayle v. United States*, 85 Fed. Cl. 72 (2008).

13. Additionally, I have repeatedly been held to be adequate class counsel in

claims arising under various state's wage and hour laws. *See, e.g., Seghroughni v. Advantus Restaurant, Inc.*, 2015 WL 390329, at *2 (M.D. Fla. Jan. 28, 2015) (appointing Frisch and Morgan & Morgan as class counsel in case arising from FMWA claims); *Deleon v. Wells Fargo, N.A.*, 1:12-cv-04494-RLE, D.E. 39 (S.D.N.Y. Jan. 12, 2015) (same); *Reyes v. AT&T Mobility Services, LLC*, 1:10-cv-20837-MGC, D.E. 191 (S.D. Fla. Dec. 20, 2012) (appointing Frisch as class counsel); *Toure v. Amerigroup Corp.*, 2012 WL 3240461, at *5 (E.D.N.Y. August 6, 2012) ("Class Counsel have substantial experience prosecuting and settling employment class actions, including wage and hour class actions, and are well-versed in wage and hour law and in class action law."); *Aponte v. Comprehensive Health Management, Inc.*, 2011 WL 2207586, at *12 (S.D.N.Y. June 2, 2011) (finding that Frisch and Morgan & Morgan "are qualified, experienced, and capable of acting as lead counsel" in wage and hour class actions).

14. I have also tried close to two dozen jury trials in the state and federal courts of Florida, Kentucky and New York, as well as over one hundred final administrative hearings in multiple states and forums.

15. Additionally, I have handled numerous cases as appellate counsel in administrative proceedings, as well as in state and federal court proceedings.

16. I am a member of the National Employment Lawyers Association ("NELA"), as well as NELA's Florida and Georgia chapters. I am also an active member of various trial lawyer organizations, including the Florida Justice Association ("FJA"), the Palm Beach County Justice Association ("PBCJA"), the Broward County Justice Association ("BCJA") and the New York State Trial Lawyers Association ("NYSTLA").

17. Further, I have published multiple articles on Wage and Hour subjects in different periodicals. I am also author/publisher of the “Overtime Law Blog” website <http://flsaovertimelaw.com>, a frequently updated site pertaining to recent developments in FLSA and Wage and Hour jurisprudence.

18. Given my expertise in wage and hour law, I am frequently asked to present to groups of attorneys and/or paralegals at speaking engagements. *See, e.g.*, Lecturer, “Overtime and Fair Labor Standards Act,” Palm Beach County Chapter of Paralegal Association of Florida, Inc., May 9, 2007; also Lecturer, “Title VII of the Civil Rights Act of 1964; Age Discrimination in Employment Act (ADEA); Older Workers Benefits Protection Act (OWBPA); Florida Whistleblowers Act,” Florida Workers’ Advocates, FWA’s 17th Annual Education Conference, June 9, 2007; Lecturer, “Best Strategies for Handling Fair Labor Standards Act (FLSA) Litigation by the Plaintiff and Defendant,” Florida Bar Labor and Employment Section, Advanced Labor Topics 2012, April 14, 2012; Lecturer, “Calculating Damages Under the FLSA to Maximize Your Claims,” Practice Made Perfect’s Wage & Hour Seminar, February 7, 2013.

19. Based on my experience and expertise handling wage and hour cases throughout the United States, my reasonable hourly rate has been recognized to be anywhere between \$325 to \$475 per hour, depending on the local market in which the case is pending.

Attorney’s Fees and Litigation Costs

20. To date, Plaintiff’s counsel has incurred approximately \$1,078.82 in out-of-pocket costs in the litigation of this case. Attached hereto as **EXHIBIT B**, is a copy of Counsel’s cost ledger to date.

21. As indicated by the contemporaneous time records attached hereto as **EXHIBIT A**, I expended a total of 12.71 hours billed at a rate of \$450.00 per hour, and Paralegals expended a total of .9 hours billed at a rate of \$125.00 per hour prosecuting this Complaint on behalf of Plaintiff, Dennis Chester. The lode star fees for prosecuting this case in order to successfully obtain judgment on behalf of Plaintiff, Dennis Chester equals \$5,832.00.

FURTHER, AFFIANT SAYETH NOT.



ANDREW R. FRISCH

STATE OF FLORIDA

COUNTY OF BROWARD

SWORN TO AND SUBSCRIBED before me this 16 day of November, 2018. The Affiant, Andrew Frisch, is ☒ personally known to me or ☐ has produced _____ as identification, which is current or has been issued within the past five years and bears a serial number or other identifying number.

SEAL:



MARY THEISEN
MY COMMISSION # FF 918702
EXPIRES: October 4, 2019
Bonded Thru Budget Notary Services



NOTARY PUBLIC-STATE OF FLORIDA

EXHIBIT A

10/31/2018

Time Sheet

Chester, Dennis vs. LNR Enterprise LLC

Date Range: All

Status: Pending/Released/Transferred/Exception

Date	Attorney	Hrs	Recorder	Timekeep	Amount
08/22/2017	AF	2.00	MTT	MTT Receipt & Review Client documents and questionnaire	\$900.00
10/18/2017	AF	.30	MTT	MTT Initial telephone conference with client to review issues	\$135.00
10/25/2017	MTT	.30	MTT	MTT Preparation of FOIA Requests	\$37.50
10/25/2017	AF	.20	MTT	MTT Preparation of FOIA Request	\$90.00
10/27/2017	AF	.20	MTT	MTT Receipt and Review of Email from Client attaching documents	\$90.00
10/30/2017	AF	1.00	MTT	MTT Initial Damage Calculations	\$450.00
11/01/2017	AF	.50	MTT	MTT Preparation of Damage Calculations	\$225.00
11/01/2017	AF	.20	MTT	MTT Telephone conference with Client regarding \$ offer	\$90.00
02/06/2018	MTT	.40	MTT	MTT Preparation of Summonses	\$50.00
02/06/2018	MTT	.20	MTT	MTT Preparation of Civile Cover Sheet	\$25.00
03/28/2018	AF	1.10	MTT	MTT Preparation of Complaint	\$495.00
03/29/2018	AF	.10	MTT	MTT Received and reviewed Order Referring case to magistrate Judge	\$45.00
03/29/2018	AF	.40	MTT	MTT Telephone conference with Client regarding employment documents	\$180.00
04/05/2018	AF	.10	MTT	MTT Receipt and Review of Returns of Service on Defendants	\$45.00
04/30/2018	AF	.80	MTT	MTT Preparation of Motion for Clerk's Default on LNR Enterprises	\$360.00
04/30/2018	AF	.20	MTT	MTT Telephone conference with TSI regarding skip trace for Carl D. Livingston	\$90.00
05/01/2018	AF	.01	MTT	MTT Receipt and Review of Clerk's Default at to LNR	\$4.50
05/09/2018	AF	.30	MTT	MTT Telephone conference with Client regarding possible location of Carl D. Livingston and any family members	\$135.00
05/14/2018	AF	.30	MTT	MTT Receipt and Review of 3 Affidavits of Non-Service on Carl D. Livingston	\$135.00
05/25/2018	AF	.20	MTT	MTT Telephone conference with Client regarding Carl D. Livingston dodging service	\$90.00
06/01/2018	AF	.50	MTT	MTT Research Service by Publication in Georgia	\$225.00
06/04/2018	AF	.70	MTT	MTT Preparation of Motion for Service by Publication	\$315.00

Time Sheet

10/31/2018

Chester, Dennis vs. LNR Enterprise LLC

Date Range: All

Status: Pending/Released/Transferred/Exception

Date	Attorney	Hrs	Recorder	Timekeep	Amount
06/04/2018	AF	.20	MTT	MTT	\$90.00
				Preparation of Proposed Order re Service by Publication	
06/11/2018	AF	.10	MTT	MTT	\$45.00
				Receipt and Review of Order Granting Service by Publication	
06/25/2018	AF	.10	MTT	MTT	\$45.00
				Preparation of Notice of Filing Notice of Service	
06/25/2018	AF	.20	MTT	MTT	\$90.00
				Preparation of Notice of Summons	
06/25/2018	AF	.30	MTT	MTT	\$135.00
				Telephone conference with Clerk in Atlanta regarding Service by Publication	
06/26/2018	AF	.20	MTT	MTT	\$90.00
				Telephone conference with Walker County Messenger (newspaper) regarding publication	
10/09/2018	AF	.30	MTT	MTT	\$135.00
				Preparation of Motion for Clerk's Entry of Default	
10/10/2018	AF	.10	MTT	MTT	\$45.00
				Receipt and Review of Clerk's Entry of Default	
10/10/2018	AF	.80	MTT	MTT	\$360.00
				Preparation of Motion for Default Judgment	
10/10/2018	AF	.70	MTT	MTT	\$315.00
				Preparation of Affidavit of Fees and Costs	
10/10/2018	AF	.60	MTT	MTT	\$270.00
				Preparation of Declaration of Dennis Chester	
Total hours:		13.61		Total Amount:	\$5,832.00

EXHIBIT B

Morgan & Morgan, P.A.

Case Expense Report

10/31/2018
11:58:32AM

(7841930) Chester, Dennis vs. LNR Enterprise LLC

Page 1 of 2

Date	Check No.	Code	Payee [Description]	Deposit	Amount
08/22/2017		POS	[Postage]		1.13
	Postage FTL				
09/26/2017		LDT	[Long Distance Telephone]		6.50
	Telephone Charges				
10/09/2017	770054	TVL	Morgan & Morgan - Jacksonville [Travel Expenses] tvI reim aug 17		13.05
10/13/2017		LDT	[Long Distance Telephone]		1.25
	Telephone Charges				
10/16/2017		PRN	[Black & White Printing]		1.50
	Black & White Printing				
10/16/2017		LDT	[Long Distance Telephone]		2.50
	Telephone Charges				
10/16/2017		LDT	[Long Distance Telephone]		0.25
	Telephone Charges				
10/16/2017		LDT	[Long Distance Telephone]		0.25
	Telephone Charges				
10/26/2017		CLP	[Color Printing]		30.00
	Color Printing				
10/26/2017		LDT	[Long Distance Telephone]		4.50
	Telephone Charges				
10/27/2017		LDT	[Long Distance Telephone]		0.25
	Telephone Charges				
10/30/2017		LDT	[Long Distance Telephone]		0.25
	Telephone Charges				
10/30/2017		PRN	[Black & White Printing]		1.50
	Black & White Printing				
11/01/2017		LDT	[Long Distance Telephone]		3.75
	Telephone Charges				
11/07/2017		LDT	[Long Distance Telephone]		3.75
	Telephone Charges				
11/09/2017		LDT	[Long Distance Telephone]		0.25
	Telephone Charges				
11/21/2017		PRN	[Black & White Printing]		2.25
	Black & White Printing				
12/06/2017		PRN	[Black & White Printing]		2.00
	Black & White Printing				
01/18/2018		PRN	[Black & White Printing]		2.00
	Black & White Printing				
02/06/2018		PRN	[Black & White Printing]		2.75
	Black & White Printing				
03/15/2018		PRN	[Black & White Printing]		2.75
	Black & White Printing				
03/26/2018		PRN	[Black & White Printing]		2.75
	Black & White Printing				
03/29/2018		PRN	[Black & White Printing]		2.75
	Black & White Printing				
04/05/2018	ACH 04.05.18	FIL	Andrew Frisch [Filing fees] Reimbursement 4.6.18		400.00
05/02/2018	796596	PSVC	TSI, Inc. [Process Service] DennisChester/7841930/TPL-2018036 819/JocelynR		100.00
05/15/2018		PRN	[Black & White Printing]		1.50
	Black & White Printing				
05/15/2018		PRN	[Black & White Printing]		1.25
	Black & White Printing				
05/15/2018		CLP	[Color Printing]		2.50
	Color Printing				
05/18/2018	798427	PSVC	TSI, Inc. [Process Service] DennisChester/7841930/TPL-2018036 798/JocelynR		400.00
05/22/2018		PRN	[Black & White Printing]		1.50
	Black & White Printing				
05/30/2018		POS	[Postage]		0.89
	Postage FTL				
06/15/2018		PRN	[Black & White Printing]		1.50
	Black & White Printing				
07/03/2018	ACH 07.03.18	CRTFEE	Andrew Frisch [Court Fees] Reimbursement 7.6.18		80.00
10/10/2018		PRN	[Black & White Printing]		1.75
	Black & White Printing				
Total:				0.00	1,078.82